

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A PLANNED DEVELOPMENT PERMIT TO ALLOW THE CONSTRUCTION OF EIGHT DETACHED SINGLE-FAMILY RESIDENCES ON EIGHT LOTS, THE DEMOLITION OF ALL EXISTING STRUCTURES ON SITE, AND THE REMOVAL OF NINE ORDINANCE-SIZE TREES ON AN APPROXIMATELY 1.0-GROSS ACRE SITE, LOCATED ON THE EAST SIDE OF ROBERTS AVENUE, APPROXIMATELY 300 FEET NORTHWEST OF LE COMPTE PLACE (1170 ROBERTS AVENUE; APN: 477-11-003)**

**FILE NO. PD24-004**

**WHEREAS**, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on April 11, 2024, a concurrent application (File No. PD24-004) was filed by the applicant and owner David Chui, of Pan Cal Corporation, (“Permittee”) with the City of San José (“City”) for a Planned Development Permit to allow the construction of eight detached single-family residences on eight lots, the demolition of all existing structures on site, and the removal of nine ordinance-size trees on an approximately 1.0-gross acre site (“Project”) on that certain real property situated in the R-1-8(PD) Planned Development Zoning District and located on the east side of Roberts Avenue, approximately 300 feet northwest of Le Compte Place (1170 Roberts Avenue, APN: 477-11-003, and sometimes referred to herein as the “subject property”); and

**WHEREAS**, a legal description of the subject property is attached as Exhibit “A” and depicted in the parcel map attached as Exhibit “B,” which are incorporated by reference; and

**WHEREAS**, at a duly noticed public hearing on October 22, 2025, the Planning Commission considered public comments and all evidence and testimony received at

the public hearing regarding the project and recommended that the City Council approve the project; and

**WHEREAS,** this City Council received and considered the reports and recommendations of the City's Planning Commission and City's Director of Planning, Building, and Code Enforcement and conducted a duly noticed public hearing on the project, giving all persons full opportunity to be heard and to present evidence and testimony; and

**WHEREAS,** at said hearing, this City Council received in evidence a plan for the subject property entitled, "Planned Development Zoning Roberts Orchards I," dated April 4, 2025, which is on file in the Department of Planning, Building, and Code Enforcement and available for inspection; said plan is incorporated by reference; and

**WHEREAS,** this City Council has heard and considered the testimony presented to it at the public hearing and has further considered written materials submitted on behalf of the project applicant, City staff, and other interested parties;

**NOW, THEREFORE,** BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

After considering evidence presented at the public hearing, the City Council finds that the following are the relevant facts and findings regarding this proposed project:

- 1. Site Description and Surrounding Uses.** The subject property is located on the east side of Roberts Avenue, approximately 300 feet northwest of Le Compte Place, at 1170 Roberts Avenue (APN: 477-11-003). The access to the site will be from a newly constructed private street off Roberts Avenue.

The surrounding land uses include single-family detached residences to the north, east, and south, and vacant land and a parking lot to the west, across Roberts Avenue. The property consists of a levelled lot with a fire-damaged house and shed-like structures, which will all be demolished.

- 2. Project Description.** The Project consists of a Planned Development Permit to allow the construction of eight detached single-family residences on eight lots and the

construction of a private street to serve the new development, the demolition of all existing structures on site, and the removal of nine ordinance-size trees on an approximately 1.0 gross-acre site.

In conjunction with the Planned Development Permit, the Project also includes a Planned Development Rezoning (File No. PDC24-039) to rezone the site to the R-1-8(PD) Planned Development Zoning District and a Vesting Tentative Map (File No. T24-011) to subdivide the 1.0-gross-acre site from one lot into eight lots for eight single-family detached residences and one private street.

### **3. General Plan Conformance.**

#### Land Use

The subject site is designated Residential Neighborhood on the Land Use/Transportation Diagram of the Envision San José 2040 General Plan.

Density: typically, 8 Dwelling units per acre (“DU/AC”); Floor Area Ratio (“FAR”) up to 0.7 (1 to 2.5 stories).

This designation is applied broadly throughout the city to encompass most of the established, single-family residential neighborhoods, including both the suburban and traditional residential neighborhood areas.

This designation allows residential density to exceed 8 DU/AC if the surrounding prevailing density is greater than 8 DU/AC. The prevailing density is 2 DU/AC; therefore, the maximum allowed density is 8 DU/AC.

*Analysis: At 1.0 acres, the Project will be developed with up to eight units at 8 DU/AC, which would be consistent with the maximum allowed density of 8 DU/AC.*

*The total FAR is approximately 0.28, which is below the maximum allowed 0.7 in conformance with the General Plan designation of Residential Neighborhood.*

#### General Plan Policies

The Project is consistent with the following key General Plan policy:

Implementation Policy IP-8.5: Use the Planned Development zoning process to tailor such regulations as allowed uses, site intensities, and development standards to a particular site for which, because of unique circumstances, a Planned Development zoning process will better conform to Envision General Plan goals and policies than may be practical through implementation of a conventional Zoning District.

*Analysis: The Project includes eight single-family detached homes and is generally consistent with the surrounding land uses, but requires specific development standards to meet the allowed density allowed by the General Plan. Those development standards include reduced lot area, width, and setbacks that would not be possible with the standard R-1-8 Single-Family Residence Zoning District, while also being compatible with the character and appearance of the adjacent residential development. The base zoning of the R-1-8 (PD) Planned Development Zoning*

*District supports compatibility with the surrounding single-family residential neighborhoods. The rezoning would allow infill development at 8 DU/AC on the subject property.*

#### **4. Zoning Conformance**

The Project is in the R-1-8 Single Family Residence Zoning District.

The Project includes a rezoning from the R-1-8 Single Family Residence Zoning District to the R-1-8(PD) Planned Development Zoning District.

##### Land Use

The rezoning from the R-1-8 to the R-1-8(PD) Planned Development Zoning District will allow for specific development standards that differ from those required by the R-1-8 Single-Family Residence Zoning District. The rezoning will also allow reduced lot sizes and setbacks to support higher density allowed per the General Plan, as discussed above, to construct eight detached single-family residences.

##### Development Regulations

Below is a comparison of the R-1-8 Single-Family Residence Zoning District per Section 20.30.200 of the Zoning Code, the proposed R-1-8(PD) Planned Development Zoning District development standards, and Project compliance with those standards.

The Project includes eight detached single-family homes on eight separate lots.

| <b>Standard</b>                             | <b>R-1-8 Zoning District Requirements</b> | <b>R-1-8(PD) Planned Development Zoning District Development Standards</b> | <b>Project Compliance with R-1-8(PD) Zoning Standards</b> |
|---------------------------------------------|-------------------------------------------|----------------------------------------------------------------------------|-----------------------------------------------------------|
| Minimum Lot Area                            | 5,445 square feet                         | 4,875 square feet                                                          | 4,875 square feet                                         |
| Minimum Front Setback (from private street) | 20 feet                                   | 18 feet                                                                    | 20 feet                                                   |
| Minimum Side Setback (interior)             | 5 feet                                    | 5 feet                                                                     | 5 feet                                                    |
| Minimum Side Setback (from Roberts Avenue)  | 12.5 feet                                 | 10 feet                                                                    | 12 feet                                                   |

|                      |                       |                       |                                         |
|----------------------|-----------------------|-----------------------|-----------------------------------------|
| Minimum Rear Setback | 20 feet               | 15 feet               | 15 feet                                 |
| Maximum Height       | 35 feet (2.5 stories) | 35 feet (2.5 stories) | 25 feet                                 |
| Parking              | None required         | None required         | Two covered spaces per unit (16 spaces) |

*Analysis: The Project conforms with the minimum lot sizes and all proposed setbacks, height, and parking standards of the R-1-8(PD) Planned Development Zoning District Development Standards.*

#### Parking and Transportation Demand Management

Effective April 10, 2023, there are no minimum parking requirements in the City of San José. Pursuant to Section 20.90.900.B.2 of the Zoning Code, the Project is exempt from preparing and implementing a Transportation Demand Management (TDM) Plan as the Project consists of less than 16 single-family detached housing units.

*Analysis: While there are no minimum parking requirements, two garage parking spaces are provided for each unit. Bicycle parking is not required for one-family dwellings. Motorcycle parking may be provided in the garage of each unit pursuant to Section 20.90.350 of the Zoning Code.*

### **5. Single-Family Design Guidelines Consistency**

The Project was analyzed for consistency with applicable Single-Family Design Guidelines. Per the California Housing Accountability Act, only objective standards (quantifiable and measurable) can be applied to residential projects. The Single-Family Design Guidelines contain no objective standards; however, the Project does comply with the key guidelines below:

Section 1. C.3. Main entries should be prominent and oriented to the street unless another pattern is well established on the block, and in an appropriate scale for the block as well as the individual building.

*Analysis: The main entrances of the single-family homes are prominent and face Roberts Avenue (public street) as well as a private street. None of the single-family home designs have main entryways that are out of scale for the structure. The Project is consistent with this section.*

Section 2. A.3. Building forms should be varied enough to avoid monotony and to be compatible with surrounding houses, but should still be simple and elegant.

*Analysis: There are a total of two floor plan elevation options of the homes within the Planned Development Permit Plan Set for the eight single-family detached homes. This provides a variety in design style, and along with changes in color and materials,*

*provides a variety in appearance. The single-family home designs are not overly complex but keep to traditional design features with sloped roofs, stucco finish, horizontal wood siding, and wood frame windows and posts, which result in simple and elegant building forms.*

## **6. City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals**

To inform the public of the Project, staff followed City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals. On-site signs have been posted on the Project frontages since June 27, 2024. A legal notice of the public hearing was distributed as appropriate to the owners and tenants of all properties located within 500 feet of the Project site, the interested parties list, and was published in the newspaper on September 30, 2025. The hearing agenda and staff report were posted on the City website. Staff has been available to respond to questions from the public.

## **7. Environmental Review.**

The City of San José, as the Lead Agency, prepared an Initial Study supporting a Mitigated Negative Declaration (“IS/MND”), State Clearinghouse No. 2025070234, for the 1170 Roberts Residential Project in compliance with the California Environmental Quality Act (“CEQA”), the CEQA Guidelines (California Code of Regulations §15000 et. seq.) and the regulations and policies of the City San José, California. The IS/MND evaluated the environmental impacts that might reasonably be anticipated to result from implementation of the proposed Project.

The Initial Study and Project documents were circulated for public review from July 8, 2025, to July 28, 2025. During the public circulation period, five comment letters were received. The Initial Study and Project documents, including the Response to Comments received during public circulation, can be found at the following link:

[1170 Roberts Avenue Residential Development Project | City of San José](#)

The IS/MND identified relevant mitigation measures for potential impacts related to air quality, biological resources, cultural resources, noise, and tribal cultural resources.

Standard Permit Conditions and Conditions of Approval are required to ensure no impacts occur during the construction or operation of the Project. These Standard Permit Conditions include best management practices for construction related air quality impacts, removal of existing trees on the site, payment of applicable Santa Clara Valley Habitat Plan fees, protection of unknown subsurface cultural resources and human remains, compliance with the California Building Code for seismic safety of the proposed building and erosion control during construction activities, protection of potential paleontological resources that could be discovered during construction, conformance with State and local laws for asbestos and lead-based paint, water quality impacts during construction and operation, and best management practices to control noise during construction and achieving an interior noise level of less than 45

dBA DNL after construction. The mitigation measures are included in the Mitigation Monitoring and Reporting Program (“MMRP”), and both the mitigation measures and standard permit conditions are made a part of this permit.

The Initial Study concluded that the proposed Project would not result in any significant and unavoidable environmental impacts, with implementation of identified mitigation measures. Therefore, an Environmental Impact Report is not required, and a Mitigated Negative Declaration is the appropriate level of CEQA clearance for the Project.

**8. Planned Development Permit Findings.** Section 20.100.940 of the Zoning Ordinance specifies the required findings for approval of a Planned Development Permit. These findings are made for the Project based on the analysis related to the General Plan, Zoning Ordinance, and CEQA conformance and subject to the conditions outlined in the Permit. In order to make the Planned Development Permit findings and recommend approval to the Planning Commission, staff must determine that:

- a. The planned development permit, as issued, is consistent with and furthers the policies of the general plan; and

*Analysis: As analyzed in Section 3, “General Plan Conformance”, above, the residential Project with eight detached single-family homes is consistent with the General Plan Residential Neighborhood land use designation, including Implementation Policy IP-8.5. The use is allowed within the Residential Neighborhood designation, and the Project meets the maximum density allowance of 8 DU/AC and is below the maximum allowed FAR of 0.7.*

- b. The planned development permit, as issued, conforms in all respects to the planned development zoning of the property; and

*Analysis: As analyzed in Section 4, “Zoning Conformance”, above, the Project is consistent with the R-1-8(PD) Planned Development Zoning District Development Standards. The Project is consistent with the parking, setback, and height requirements of the Planned Development Standards and the General Development Plan.*

- c. The planned development permit, as approved, is consistent with applicable city council policies, or counterbalancing considerations justify the inconsistency; and

*Analysis: The Project is consistent with all applicable City Council policies. Staff followed Council Policy 6-30: Public Outreach Policy for Pending Land Use and Development Proposals in order to inform the public of the Project. Signs describing the Project were posted on the subject property along the Project frontage since June 27, 2024. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the subject property*

*and posted on the City's website. Staff has been available to answer public inquiries.*

- d. The interrelationship between the orientation, location, mass, and scale of building volumes, and elevations of proposed buildings, structures, and other uses on-site are appropriate, compatible, and aesthetically harmonious; and

*Analysis: The subject single-family residential Project provides eight new detached single-family homes. The design of the single-family homes includes traditional design features with sloped roofs, stucco finish, horizontal wood siding, and wood frame windows and posts, which result in simple and elegant building forms.*

*The design also includes variations in color, materials, projections, and recessions, which contribute to an interesting and varied design. The Project includes planting of trees and landscaping along the site's street frontage and incorporates private yards. The Project would therefore be aesthetically harmonious.*

- e. The environmental impacts of the Project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor, which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties.

*Analysis: As discussed in Section 7, "Environmental Review", above, the Project incorporates measures to address noise, stormwater runoff, drainage, and erosion. The Project will be required to adhere to all applicable standard permit conditions and mitigation measures related to reducing temporary and operational sources of noise and vibration, dust, and erosion. Noise resulting from the construction of the Project is limited to the posted construction hours between 7:00 a.m. and 7:00 p.m., Monday to Friday, and would be temporary in nature. The Project will be required to comply with all City permits and policies related to erosion and stormwater runoff. The scope of the Project is considered to be an infill development and will be required to comply with the City's Post-Construction Urban Runoff Management Policy, which requires implementation of Best Management Practices, including site design measures, source controls, and numerically sized Low Impact Development stormwater treatment measures to minimize stormwater pollutant discharges, as per the Public Works Final Memo dated August 27, 2024. For these reasons, the Project is not anticipated to have an unacceptable negative impact on adjacent properties.*

**9. Demolition Permit Findings.** With respect to the demolition of the existing building, the Director of Planning, Building, and Code Enforcement has considered the following:

- a. The failure to approve the permit would result in the creation of continued existence of a nuisance, blight or dangerous condition.

- b. The failure to approve the permit would jeopardize public health, safety or welfare.
- c. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood.
- d. Both inventoried and non-inventoried buildings, sites and districts of historical significance will not be negatively impacted.
- e. The approval of the demolition of the building would maintain the supply of existing housing stock in the City.
- f. Rehabilitation or reuse of the existing building would not be feasible.
- g. The permit applicant has provided evidence that either the existing Building or Structure is not a Multiple Dwelling or Mobile home Park or that the permit applicant has complied with all relocation obligations under state and local law, including but not limited to the obligations in Chapters 17.20, 17.23, and 20.200 of the Municipal Code.

*Analysis: The existing single-family residence was built in 1910 and has not been identified as historically significant, nor potentially eligible for listing under the City's Historic Resources Inventory (HRI) or the California Register of Historic Places (CRHP), by the City's Historic Preservation Officer, based on the fact that it burned down to collapsed wood framing and concrete foundation between November 2020 and September 2022, per a letter dated April 15, 2024, submitted by the applicant.*

*The reuse of the structure is not possible, and the proposed Project would remove the blight and help facilitate the development of eight single-family detached homes. The proposed architectural style, including the sloped roof form and materials, is compatible with existing residential structures in the neighborhood. The Project will result in the demolition of an existing single-family residence but will be replaced with eight new single-family homes on the subject site, which will add seven additional units to the existing housing stock of the city; There are other land use designations in the city which allow for residential housing development for which designated land area is available and this permit does not preclude housing construction in these designated areas. Finally, no existing structures on the property are multiple dwellings or a mobile home park, as seen in the Project plan set.*

## **10. Tree Removal Findings**

Chapter 13.32 of the San José Municipal Code establishes required findings that must be made for issuance of a Live Tree Removal Permit for ordinance-size trees. The ordinance-size tree removal meets the following required finding:

- a. That the condition of the tree with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires its removal.

*Analysis: The Project includes the removal of 9 ordinance-size trees, ranging from approximately 38 inches to 62 inches in circumference, and consists of 4 Black Walnut and 5 Privet trees. To facilitate the development of eight single-family homes, the trees are required to be removed and replaced at the City-required tree ratio (4:1). The trees to be removed cannot be preserved, since they are within the building footprint of the proposed development, such that it precludes a viable floor plan without removal of the trees.*

*The tree replacement ratio for the nine ordinance-size trees, at a ratio of 4:1, will require the planting of 36 new 15-gallon trees. The Project includes planting 18 new 24-inch box trees (36 new 15-gallon trees) to meet the tree planting requirement. An off-site tree replacement in-lieu fee, at \$1,000 per tree, will be incurred if the required replacement trees are not planted on-site.*

*Proof of tree replacement planting is required. The applicant shall provide appropriate evidence, such as but not limited to photographs and/or receipts, to the Planning Project Manager to verify compliance with the mitigation requirements. Such evidence shall be uploaded to [www.sjpermits.org](http://www.sjpermits.org).*

In accordance with the findings set forth above, a Planned Development Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **granted**. This City Council expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

#### **APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Acceptance of Permit.** Per San José Municipal Code Section 20.100.290(B), should the Permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the Permittee shall be deemed to be constitute all of the following on behalf of the Permittee:
  - a. Acceptance of the Permit by the Permittee; and
  - b. Agreement by the Permittee to be bound by, to comply with, and to do all things required of or by the Permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Planned Development Permit shall automatically expire two (2) years from and after the date of issuance hereof by the City Council, if within such time period, the proposed use of the site or the construction of buildings (if a Building Permit is required) has not commenced, pursuant to and in accordance with the provisions of this Permit. The date of issuance is the date this Permit is approved by

the City Council. However, the Director of Planning, Building, and Code Enforcement may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.

3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Permit shall be deemed acceptance of all conditions specified in this Permit and the Permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described in the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José - Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José - Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager makes a determination that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.
5. **Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved Planned Development Permit plans entitled, "Planned Development Zoning for Roberts Orchards I" dated April 4, 2025, on file with the Department of Planning, Building and Code Enforcement as may be amended subject to City's approval, and to the San José Building Code (San José Municipal Code, Title 24), as amended. The plans are referred to herein as the "approved plans" or the "Approved Plan Set."
6. **Demolition Permit.** A demolition permit may be issued for the 1170 Roberts Avenue Project only upon the submittal of a complete Public Works Grading Permit application or the submittal of a complete Building Permit application for new construction. All

relevant CEQA Mitigation measures or Housing requirements must be complete prior to any demolition activity.

7. **Planned Development District Effectuated.** This Planned Development Permit effectuates the Planned Development Zoning as reflected in the Permit's Approved Plan Set and the corresponding legal description.
8. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, state, and federal laws.
9. **Discretionary Review.** The City maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
10. **Utilities.** All new on-site telephone, electrical, and other service facilities shall be placed underground.
11. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
12. **Housing Conditions of Approval.**
  - a. Applicants with Residential Developments of three (3) or more dwelling units are required to submit an Affordable Housing Compliance Plan (AHCP) application for approval.
  - b. The proposed 8 For Sale development is exempt from compliance with the requirements of the IHO as Residential Developments that have nine (9) or fewer For Sale Dwelling units are exempt from compliance with the requirements of the IHO (SJMC Section 5.08.320.A.2).
  - c. The Housing Department has received and recommended approval of the AHCP application.
13. **No Extended Construction Hours.** This Permit does not allow any construction activity on a site located within 500 feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.
14. **Construction Disturbance Coordinator.** Rules and regulations pertaining to all construction activities and limitations identified in this Permit, along with the name and telephone number of a Permittee-appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.
15. **Homeowner's Association.** Prior to Final Map recordation, a Homeowner's Association shall be established for maintenance of all common areas, including but not limited to private streets, pedestrian walkways, easements, landscaping (including landscaping in the public right-of-way that is not already in a maintenance district), driveways/courtyards, and any common open space areas. A copy of the Development Permit and/or Tentative Map Permit, the accompanying Approved Plans, any approved

Amendments or Adjustments, and a complete set of approved building and all improvement plans shall be provided to the Homeowner's Association by the Permittee no later than 30 days upon completion of each construction phase.

16. **Maintenance Agreement in Lieu of Homeowners Association.** If the Permittee elects a Maintenance Agreement to be established in lieu of a Homeowners Association for the maintenance of common improvements, including streets, sidewalks, landscaping, utilities, and stormwater improvements, said agreement shall address the adequate funding, provision, and maintenance of common improvements by the property owners, and shall include adequate provisions for enforceability during the life of the development and to the satisfaction of the Director of Planning, Building, and Code Enforcement. Said agreement shall be recorded concurrently with the final subdivision map.
17. **No Tract Sales Office/Model Homes Approved.** This Permit does not include the approval of a tract sales office/model homes complex. Said use requires a Permit Adjustment approved by the Director of Planning, Building, and Code Enforcement.
18. **Stormwater Stenciling.** All storm drain inlets and catch basins shall be stenciled with the "NO DUMPING - FLOWS TO BAY," applied to the top and/or face of the curb next to the storm drain inlet. The development maintenance entity and/or property owner shall ensure that all storm drain inlet markings located on privately maintained streets within the property are present and maintained.
19. **Landscaping Conditions**
  - a. **Landscaping.** Planting and irrigation are to be provided by the Permittee, as indicated, on the final Approved Plans.
  - b. **Timing of Tree Removals.** Trees that are proposed for removal to accommodate new development shall not be removed until the related complete Public Works Grading Permit Application or Building Permit Application for new construction has been filed.
  - c. **Tree Protection Standards.** The Permittee shall maintain the trees and other vegetation shown to be retained in this Project and as noted on the Approved Plan Set. Maintenance shall include pruning and watering as necessary and protection from construction damage. Prior to the removal of any tree on the site, all trees to be preserved shall be permanently identified by metal numbered tags. Prior to issuance of the Grading Permit or removal of any tree, all trees to be saved shall be protected by chain link fencing, or other fencing type approved by the Director of Planning, Building, and Code Enforcement. Said fencing shall be installed at the dripline of the tree in all cases and shall remain during construction. No storage of construction materials, landscape materials, vehicles or construction activities shall occur within the fenced tree protection area. Any root pruning required for construction purposes shall receive prior review and approval and shall be supervised by the consulting licensed arborist. Fencing and signage shall be

maintained by the Permittee to prevent disturbances during the full length of the construction period that could potentially disrupt the habitat or trees.

- d. **Tree Removal In-Lieu Fee.** Prior to the removal of trees without on-site replacement trees, the Permittee shall pay the invoice for tree replacement in lieu payment per Municipal Code Section 13.32 for 36 15-gallon replacement trees. The fee shall be paid prior to Building Permit issuance or Grading Permit issuance, whichever comes first, according to the current adopted fee schedule.
- e. **Tree Replacement Enforcement.** Failure to plant trees in conformance with the Approved Plan Set may be subject to in lieu fees for trees not planted.
- f. **Verification of Payment and/or Planting of Replacement Tree(s).** After payment of the in-lieu fee and/or the planting of required replacement trees on-site, the Permittee shall provide appropriate evidence, such as but not limited to photographs and/or receipts to the Planning Project Manager to verify compliance with the mitigation requirements. Such evidence shall be uploaded to [www.sjpermits.org](http://www.sjpermits.org) using these instructions:
  - i. How to set up an account: <https://www.sanjoseca.gov/business/development-services-permit-center/online-permits-at-sjpermits-org>, and
  - ii. How to upload:  
<https://www.sanjoseca.gov/home/showpublisheddocument/88853/638088605255430000>.
  - iii. Such evidence shall also be emailed to the Planning Project Manager and labeled File No. PD24-004.
- g. **Replacement Tree Failure.** On-site replacement trees that fail within three years after planting shall be promptly replaced per Section 13.32.110.E of the San José Municipal Code.
- h. **Irrigation Standards.** Irrigation shall be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping, the City of San José Landscape and Irrigation Guidelines and the Zonal Irrigation Plan in the Approved Plans, as applicable. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
- i. **Certification.** Pursuant to San José Municipal Code, Section 15.11.1050 certificates of substantial completion for landscape and irrigation installation shall be completed by a licensed or certified professional and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the Project, as applicable

## 20. Environmental Services

- a. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the Project, including information on available haulers and processors.
- b. **South Bay Water Recycling (SBWR).** The development is adjacent to an existing recycled water pipeline and therefore shall conform to Chapters 15.10 and 15.11 of the San José Municipal Code. These chapters require all new and restored landscaping for projects that require a development permit from the City to be designed and constructed to receive recycled water. All irrigation systems shall be metered separately from the potable water supply system, shall have no on-site cross-connections to the potable water supply, and shall meet all other legal requirements necessary to allow for recycled water use. The use of potable water to irrigate any outdoor landscaping plumbed for recycled water where recycled water is available to the property is prohibited.
  - i. The design and construction of the irrigation system shall conform to SBWR Rules and Regulations and shall be submitted to and approved by SBWR. Standard details, specifications, and notes are available online at [www.sanjoseca.gov/sbwr](http://www.sanjoseca.gov/sbwr) or by calling (408) 793-1865. The Permittee shall also consider using recycled water in lieu of drinking water for other non-potable applications such as toilet flushing, commercial laundry, and building cooling. Refer to SBWR's website for a complete list of approved uses of recycled water. Questions regarding recycled water use should be directed to SBWR staff at the above number.

21. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of any Building Permit, the Project must comply with the California Fire Code as adopted or updated by the City.

22. **Building Division Clearance for Issuing Permits.** Prior to the issuance of any Building permit, the following requirements shall be met to the satisfaction of the Chief Building Official:

- a. *Construction Plans.* This Permit file number, PD24-004, shall be printed on all construction plans submitted to the Building Division.
- b. *Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
- c. *Emergency Address Card.* The Project Permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
- d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for Project conformance will begin with the initial plan check submittal to the Building Division.

Prior to any Building Permit issuance, Building Permit plans shall conform to the approved Planning development permits and applicable conditions.

- e. **Project Addressing Plan.** Prior to issuance of any Building Permit, the following requirements shall be met to the satisfaction of the Chief Building Official: The Project Permittee shall submit an addressing plan for approval for the subject development (residential, mixed use, complex commercial or industrial). The addressing plan should include proposed street names for the streets (as referenced on an approved tentative map) and the type of addressing (i.e., individual street addresses as compared to unit numbers off of a primary street).
  - f. **Other.** Such other requirements as may be specified by the Chief Building Official.
23. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the Project, including information on available haulers and processors.
24. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract Map by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the Permittee will be required to have satisfied all of the following Public Works conditions. The Permittee is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at: <http://www.sanjoseca.gov/devresources>.
- a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
  - b. **Transportation:** This Project meets the screening criteria of Small Infill Projects: Single-Family Detached residential Projects of 15 or fewer dwelling units for Vehicle Miles Traveled under Council Policy 5-1 which results in less-than-significant impacts for transportation. This Project does not require a detailed CEQA Transportation Analysis nor a Local Transportation Analysis. The Project is expected to result in less-than-significant transportation impacts and the projected traffic for the Project was reviewed and found to be minimal.
  - c. **Grading/Geology:**
    - i. A grading permit is required prior to the issuance of a Public Works Clearance.
    - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 feet in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the

issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The Project shall provide storm drainage calculations that adhere to the latest California Plumbing Code as adopted under the City of San Jose Municipal Code Section 24.04.100 or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.

- iii. If the Project proposes to haul more than 10,000 cubic yards of cut/fill to or from the Project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
  - iv. Because this Project involves a land disturbance of one or more acres, the Permittee is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
  - v. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- d. **Stormwater Runoff Pollution Control Measures:** This Project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
- i. The Project's Stormwater Control Plan and numeric sizing calculations have been reviewed and require revisions.
  - ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.

- e. **Stormwater Peak Flow Control Measures:** The Project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
- f. **Flood: Zone D** The Project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
- g. **Sewage Fees:** In accordance with the San José Municipal Code, all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
- h. **Parks:** This residential Project is subject to the payment of park fees in-lieu of land dedication under either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San José Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San José Municipal Code).
- i. **Street Improvements:**
  - i. Reconstruct half street along Roberts Avenue frontage including curb, gutter, sidewalk, and pavement sections.
  - ii. Construct curb, gutter, and a 12" wide detached sidewalk along the Roberts Avenue frontage.
  - iii. Proposed driveway width to be 22'.
  - iv. Developer shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the Project frontage.
  - v. Dedication and improvement of the public streets shall be to the satisfaction of the Director of Public Works.
  - vi. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
- j. **SNI:** This Project is located within the Tully-Senter SNI area. Public improvements shall conform to the approved EIR and neighborhood improvement plan.
- k. **Storm:** Construct a new 15" RCP storm main extension from LeCompte Place to the northerly property line on Roberts Avenue.
- l. **Sanitary:** The Project is required to submit plan and profile of the private sewer mains with lateral locations for final review and comment prior to construction.

m. **Electrical:**

- i. Existing electroliers along the Project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
- ii. Locate and protect existing electrical conduit in driveway and/or sidewalk construction.

- n. **Street Trees:** The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire Project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in park strip. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.

o. **Private Streets:**

- i. Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.
- ii. The plan set includes details of private infrastructure improvements. The details are shown for information only. Final design shall require the approval of the Director of Public Works.

25. **Conformance to MMRP.** This Project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program (MMRP) approved for this development by City Council Resolution No. \_\_\_\_\_.

26. **Standard Environmental Permit Conditions**

- a. **Construction Air Quality.** The Permittee shall implement the following measures during all phases of construction to control dust and exhaust at the Project site:
- i. Water all exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) two times per day.
  - ii. Cover all haul trucks transporting soil, sand, or other loose material off-site.
  - iii. Remove all visible mud or dirt track-out onto adjacent public roads at least once per day using wet power vacuum street sweepers. The use of dry power sweeping is prohibited.
  - iv. Limit all vehicle speeds on unpaved roads to 15 mph.
  - v. Pave all new roadways, driveways, and sidewalks as soon as possible.
  - vi. Lay building pads as soon as possible after grading unless seeding or soil binders are used.

- vii. Suspend all excavation, grading, and/or demolition activities when average wind speeds exceed 20 mph.
- viii. Wash off all trucks and equipment, including their tires, prior to leaving the site.
- ix. Treat unpaved roads providing access to sites located 100 feet or further from a paved road with a 6- to 12-inch layer of compacted layer of wood chips, mulch, or gravel.
- x. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to no more than 2 minutes (A 5-minute limit is required by the state airborne toxics control measure [Title 13, Sections 2449(d)(3) and 2485 of the California Code of Regulations]). Provide clear signage that posts this requirement for workers at all access points to the site.
- xi. Maintain and properly tune all construction equipment in accordance with the manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- xii. Post a publicly visible sign with the name and phone number of an on-site construction coordinator to contact regarding dust complaints. The on-site construction coordinator shall respond and take corrective action within 48 hours. The sign shall also provide the City's Code Enforcement Complaints email and number and the Air District's General Air Pollution Complaints number to ensure compliance with applicable regulations.

**b. Tree Replacement**

Trees removed for the Project shall be replaced at ratios required by the City, as amended:

9 trees on-site will be removed. Nine ordinance-sized trees will be replaced at a 4:1 ratio. The total number and size of replacement trees required to be planted on-site is 18 twenty-four-inch box trees (equivalent to 36 fifteen-gallon trees).

If there is insufficient area on the Project site to accommodate the required replacement trees, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement or the Director's designee. Changes to an approved landscape plan require the issuance of a Permit Adjustment or Permit Amendment.

The size of a 15-gallon replacement tree may be increased to a 24-inch box and count as two replacement trees to be planted on the Project site.

Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of building permit(s), in accordance with the City Council-approved Fee Resolution in effect at the time of payment. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

**c. Santa Clara Valley Habitat Plan**

Santa Clara Valley Habitat Plan. The Project may be subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The Permittee shall submit the Santa Clara Valley Habitat Plan Coverage Screening Form22 (<https://www.scv-habitatagency.org/DocumentCenter/View/151/Coverage-Screening-Form?bidId=>) to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of all applicable fees prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at <https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan>. Therefore, with implementation of the identified standard permit condition above, the Project would not conflict with the provisions of the SCVHP, and impacts would be less than significant.

**d. Geology and Soils.**

*Seismic Hazards*

- i. A Geotechnical Report shall be submitted, reviewed, and approved by the City Geologist. The Geotechnical Report shall determine the site-specific soil conditions and identify the appropriate design and construction techniques to minimize risks to people and structures, including but not limited to: foundation, earthwork, utility trenching, retaining, and drainage recommendations. The investigation should be consistent with State of California guidelines for the preparation of seismic hazard evaluation reports (CGS Special Publication 117A, 2008, and the Southern California Earthquake Center report, SCEC, 1999). A recommended minimum depth of 50 feet should be explored and evaluated in the investigation. The City Geologist will review the Geotechnical Report and issue a Geologic Clearance.
- ii. All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- iii. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- iv. Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- v. The Project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard

practices would ensure that the future building on the site is designed to properly account for soil-related hazards on the site.

- vi. If dewatering is needed, the design-level geotechnical investigations to be prepared for individual future development projects shall evaluate the underlying sediments and determine the potential for settlements to occur. If it is determined that unacceptable settlements may occur, then alternative groundwater control systems shall be required.

- e. **Subsurface Cultural Resources.** If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of PBCE or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation with a Native American Tribal representative registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall examine the find. The archaeologist in consultation with the Tribal representative shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits.

Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to the Director of PBCE or the Director's designee, the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

- f. **Human Remains.** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Permittee shall immediately notify the Director of PBCE or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the NAHC within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

- The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
- The MLD identified fails to make a recommendation; or
- The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

**g. Seismic Hazards.**

- i. A Geotechnical Report shall be submitted, reviewed, and approved by the City Geologist. The Geotechnical Report shall determine the site-specific soil conditions and identify the appropriate design and construction techniques to minimize risks to people and structures, including but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with State of California guidelines for the preparation of seismic hazard evaluation reports (CGS Special Publication 117A, 2008, and the Southern California Earthquake Center report, SCEC, 1999). A recommended minimum depth of 50 feet should be explored and evaluated in the investigation. The City Geologist will review the Geotechnical Report and issue a Geologic Clearance.
- ii. All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- iii. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- iv. Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- v. The Project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.
- vi. If dewatering is needed, the design-level geotechnical investigations to be prepared for individual future development projects shall evaluate the underlying sediments and determine the potential for settlements to occur. If it is determined that unacceptable settlements may occur, then alternative groundwater control systems shall be required.

- h. Paleontological Resources.** If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, the Director of PBCE or

the Director's designee shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The Permittee shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of PBCE or the Director's designee.

**i. Asbestos and Lead-Based Paint.**

- i. In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint (LBP).
- ii. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
- iii. All potentially friable asbestos containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
- iv. A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- v. Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

**j. Construction-related Water Quality.**

- i. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.

- ii. Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
  - iii. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
  - iv. Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
  - v. All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.
  - vi. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
  - vii. Vegetation in disturbed areas shall be replanted as quickly as possible.
  - viii. All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
  - ix. Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
  - x. All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
  - xi. The Permittee shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.
- k. **Construction-Related Noise.** Noise minimization measures include, but are not limited to, the following:
- i. Pile Driving is Prohibited.
  - ii. Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
  - iii. Construct solid plywood fences around ground-level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
  - iv. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.

- v. Prohibit unnecessary idling of internal combustion engines.
- vi. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- vii. Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- viii. Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the Project site.
- ix. Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.
- x. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- xi. Designate a “disturbance coordinator” who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
- xii. Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

#### **I. Interior Noise for Residential Development**

The Permittee shall prepare final design plans that incorporate building design and acoustical treatments to ensure compliance with State Building Codes and City noise standards. A Project-specific acoustical analysis shall be prepared to ensure that the design incorporates controls to reduce interior noise levels to 45 dBA DNL or lower within the residential unit. The Permittee shall conform with any special building construction techniques requested by the City’s Building Department,

which may include sound-rated windows and doors, sound-rated wall constructions, and acoustical caulking.

**27. Revocation, Suspension, Modification.** This Planned Development Permit may be revoked, suspended or modified by the City Council at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:

- a. A violation of any conditions of the Planned Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

In accordance with the findings set forth above, a permit to use the subject property for said purpose specified above is hereby approved.

#### **EFFECTIVE DATE**

The effective date of this Planned Development Permit shall be the same as effective date of the Rezoning Ordinance for File No. PDC24-039 passed for publication on \_\_\_\_\_, 2025 (the "Zoning Ordinance") and shall be no earlier than the effective date of said Rezoning Ordinance.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2025, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

---

MATT MAHAN  
Mayor

ATTEST:

---

TONI J. TABER, MMC  
City Clerk

**NOTICE TO PARTIES**

*The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.*

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**1170 ROBERTS AVE**

REAL PROPERTY IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING ALL OF THE LAND DESCRIBED IN THE GRANT DEED RECORDED AUGUST 15, 2000, IN DOCUMENT NO. 15356852 OF OFFICIAL RECORDS, SANTA CLARA COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHERNMOST CORNER OF SAID LANDS, THENCE NORTH 37°29'20" WEST, A DISTANCE OF 125.11 FEET ALONG THE NORTH LINE OF ROBERTS AVENUE;

THENCE NORTH 50°03'38" EAST, A DISTANCE OF 349.53 FEET;

THENCE SOUTH 37°28'20" EAST, A DISTANCE OF 125.12 FEET;

THENCE SOUTH 50°03'38" WEST, A DISTANCE OF 349.49 FEET TO THE POINT OF BEGINNING.

CONTAINING 43,689 SQUARE FEET OR 1.003 ACRES, MORE OR LESS.

THIS LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION IN ACCORDANCE WITH THE PROFESSIONAL LAND SURVEYORS ACT.

A PLAT OF THE ABOVE DESCRIBED PROPERTY IS ATTACHED AS EXHIBIT "B" AND BY THIS REFERENCE MADE A PART THEREOF.

APRIL 8, 2024



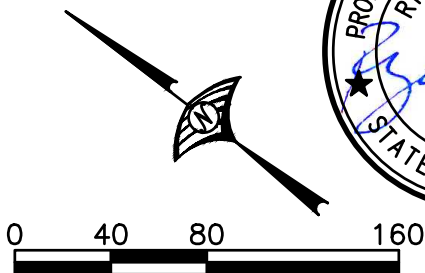
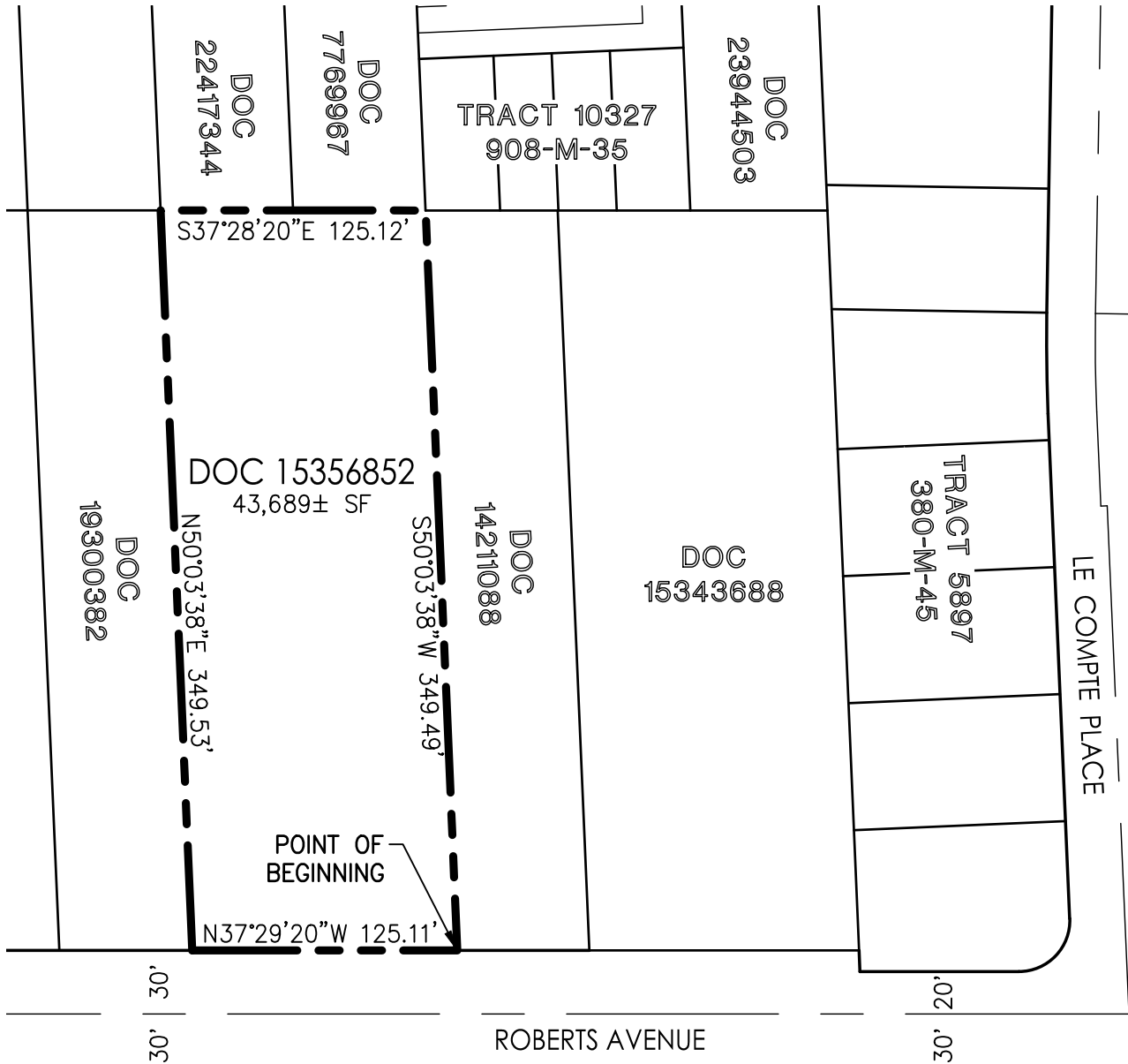
RYAN M. SEXTON / PLS 9177



# EXHIBIT 'B'

PLAT TO ACCOMPANY  
DESCRIPTION

1170 ROBERTS AVENUE  
CITY OF SAN JOSE  
SANTA CLARA COUNTY STATE OF CALIFORNIA



**WOOD RODGERS**  
BUILDING RELATIONSHIPS ONE PROJECT AT A TIME  
3875 HOPYARD ROAD, SUITE 345 TEL 925.847.1556  
PLEASANTON, CA 94588 FAX 925.847.1557

April 8, 2024 4431001 SHEET 1 OF 1